

REMARKS

This amendment is responsive to the Office Action mailed September 13, 2006 in connection with the above-identified patent application. Claims 1-21 have been cancelled. Claims 22-25 have been amended and are in condition for allowance.

Allowable Subject Matter

Claims 23-24 were objected to as being dependent upon a rejected base claim, but were deemed allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The Examiner gave the following primary reason for the indication of allowable subject matter for claims 23-24: The inclusion of the limitation of the cylindrical neck extends inwardly of the chamber from the top wall and is surrounded by a peripheral recess, whereby the outer end of the neck is adjacent to the outer side of the top wall. It is this limitation found in each of the claims, as it is claimed in the combination, that has not been found, taught or suggested by the prior art of record which makes these claims allowable over the prior art. Claim 23 has been placed into independent form and is in condition for allowance. Claim 24 depends from claim 23 and also is in condition for allowance.

35 U.S.C. §102(b) Rejections

Claim 22 was again rejected under 35 U.S.C. §102(b) as being anticipated by Amberntsson et al. (U.S. Patent No. 3,953,862). Amberntsson et al. were deemed to disclose an ink cartridge comprising a housing having a top wall, a bottom wall and side walls forming a chamber (12) for receiving ink, an outlet passage (25) through the bottom wall for dispensing ink from the chamber (12, Figure 2), and a vent/air inlet (33) including an opening through the top wall for venting air into the chamber (12) from atmosphere, wherein the opening through the top wall includes a cylindrical neck having an outer end, the vent being a porous member (34) resting on the outer end to cover the opening and having cells sized to allow air flow into the chamber substantially equal to ink flow through the outlet passage, and a cap securing the porous member (34) on the neck (Column 2, Lines 14-23).

The top wall of the housing in Amberntsson includes an opening 31 which receives

a plug 32 having a vent 33 therethrough and a filter 34 at the inner end of the vent. Claim 22 has been amended to recite the opening through the top wall of applicant's cartridge to include "a cylindrical neck having an upper, outer end" and specifically sets forth that applicant's vent is a porous member "resting on said upper, outer end to cover said opening." Opening 31 in Amberntsson, et al. does not include a cylindrical neck having an outer end, and a porous member resting on the upper, outer end of such a cylindrical neck and secured thereto by a cap.

For a prior art reference to anticipate a claim in terms of 35 U.S.C. § 102, every element of the claim must be identically shown in a single reference, and these elements must be arranged as recited in the claim. See, for example, *In re: Bond*, 15, USPQ 2d 1566, 1567 (CAFC 1990) citing *Diversitech Corp. v. Century Steps, Inc.*, 7 USPQ 2d 1315, 1317 (CAFC 1988). Amberntsson, et al. simply fail to show an opening including a cylindrical neck having an upper, outer end, a porous member resting on the upper, outer end to cover the opening, and a cap securing the porous member on the neck. Accordingly, claim 22 is in condition for allowance over the prior art of record.

35 U.S.C. §103(a) Rejections

Claim 25 was rejected under 35 U.S.C. §103(a) as being unpatentable over Wenzel (U.S. Patent No. 5,700,315) in view of Askren et al. (U.S. Patent Publication No. 2002/0097283). Wenzel was deemed to disclose a housing having a top wall (80), a bottom wall (32) and side walls (20, 22) forming a chamber for receiving ink, an outlet passage (52) through the bottom wall for dispensing ink from the chamber, and a vent (84) including an opening through the top wall for venting air into the chamber from atmosphere (Figure 1). The Examiner acknowledged that Wenzel does not disclose the vent being a diaphragm mounted on the top wall and having a flexible portion overlying the opening through the top wall on the inner side thereof.

Askren et al. were deemed to disclose a vent (62) being a diaphragm (66) mounted on the top wall and having a flexible portion overlying the opening through the top wall on the inner side thereof. The Examiner concluded that it would have been obvious to incorporate the teaching of vent being a diaphragm mounted on the top wall and having a flexible portion overlying the opening through the top wall on the inner side thereof as taught by Askren into the device of Wenzel.

As acknowledged by the Examiner, the outlet passage 52 of Wenzel is in front wall 32 of the housing, not the bottom wall, and vent opening 34 is in an end cap 80 and not the top wall.

Claim 25 has been amended to recite that the diaphragm vent has a second portion extending through the opening which secures the vent into position with respect to the housing. Referring to the present specification (Figure 4), the diaphragm 90 is inserted into opening of the housing top surface 92 and a portion has a ledged area 94 which locks it into position. In contrast, Askren et al. merely teach a flexible diaphragm 66 which is positioned within housing 60 but does not show a second portion extending through an opening to secure the diaphragm into position. Thus, Wenzel in combination with Askren et al. do not teach or suggest a diaphragm mounted on a top wall having a second portion extending through the opening to secure the diaphragm to the housing. Accordingly, claim 25 is in condition for allowance over the prior art of record.

CONCLUSION

For the reasons detailed above, it is respectfully submitted all claims remaining in the application (Claims 22-25) are now in condition for allowance.

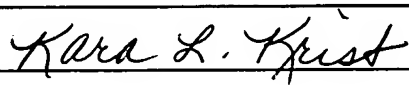
Respectfully submitted,

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12/13/06
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